

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

UNITED STATES OF AMERICA,

Plaintiff,

v.

CALVIN BRUCE,

Defendant.

MEMORANDUM

11-cv-672-bbc
07-cr-57-bbc

On January 31, 2012, I denied defendant Calvin Bruce's motion for post conviction relief under 28 U.S.C. § 2255 for his failure to show that either his conviction or sentence is illegal. Because I had failed to address the issuance of a certificate of appealability in the January 31, 2012 order, I denied the issuance of such a certificate in an order entered on April 12, 2012.

Thereafter, defendant filed with the court of appeals a notice of appeal of the denial of a certificate of appealability. The court of appeals has forwarded the notice of appeal to this court for processing of the record so that the court of appeals can review this court's denial of the certificate of appealability.

According to 28 U.S.C. § 1915(a), a defendant who is found eligible for court-appointed counsel in the district court proceedings may proceed on appeal in forma pauperis without further authorization “unless the district court shall certify that the appeal is not taken in good faith or shall find that the party is otherwise not entitled so to proceed.” Defendant had appointed counsel during the criminal proceedings against him and I do not intend to certify that the appeal is not taken in good faith. Defendant’s challenge to his sentence is not wholly frivolous. A reasonable person could suppose that it has some merit. Lee v. Clinton, 209 F.3d 1025, 1026 (7th Cir. 2000).

ORDER

Defendant Calvin Bruce’s motion to proceed in forma pauperis on appeal is GRANTED. A copy of this order will be forwarded to the court of appeals so that it can address the appeal of the denial of the certificate of appealability.

Entered this 31st day of May, 2012.

BY THE COURT:

/s/

BARBARA B. CRABB

District Judge